

DEPARTMENT OF STATE REVENUE
SUPPLEMENTARY LETTER OF FINDINGS NUMBER: 04-0311
Individual Income Tax
For the Year 2001

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ISSUE

Individual Income Tax—Assessment

Authority IC 6-8.1-5-1(a), (b), (c).

Taxpayer protests the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayer filed an IT-40 for the year ending 2001, which listed no income. A cross-match with the federal return indicated income. The Department mailed to Taxpayer a Proposed Assessment and a Demand Notice for Payment. Taxpayer mailed a protest letter to the Department stating that they do not agree with the proposed amount. A hearing officer was assigned to hear the protest and mailed a letter informing Taxpayer of the hearing date. Taxpayer did not show for the tax protest hearing and a Letter of Findings was written based on the information in Taxpayer's case file. Taxpayer requested a rehearing and one was granted. Taxpayer was mailed a certified letter stating the date and time of the rehearing. A return receipt was received with Taxpayer's signature upon it. The Hearing Officer also phoned and spoke with Taxpayer—to inform them of the date and time of the rehearing. Taxpayer also did not show for the rehearing. Taxpayer did mail a certified letter containing their basis for the tax protest. That letter was included in Taxpayer's case file. This Supplementary Letter of Findings was written based on the information in Taxpayer's case file.

DISCUSSION

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). If the Department reasonably believes that a person has not reported the proper amount of tax due, the Department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the Department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The Department shall send the person a notice of the proposed assessment through the United States mail. IC 6-8.1-5-1(a). The notice shall state that the person has sixty (60) days from the date the notice is mailed

to pay the assessment or to file a written protest. If the person files a protest and requests a hearing on the protest, the Department shall:

- (1) set the hearing at the Department's earliest convenient time; and
- (2) notify the person by United States mail of the time, date, and location of the hearing.

IC 6-8.1-5-1(c).

The Department has followed the statutes and has provided Taxpayer with the opportunity to be heard at a hearing and also at a rehearing—which Taxpayer has chosen not to attend both times. Based on the information and evidence in Taxpayer's case file, the Department finds the assessment to be accurate. No credible evidence to rebut the accuracy of the assessment was provided by Taxpayer. Taxpayer has made references to the Internal Revenue code, Indiana statutes, and United States Supreme Court cases that since have been overruled. None of these are convincing to rebut the presumption of the accuracy of the assessment. Taxpayer has cited Indiana statutes and regulations permitting access to public records. This has no bearing upon rebutting the accuracy of the assessment.

FINDING

Taxpayer's protest is denied. The assessment of individual income tax is due. Penalties and interest are due.

AAG/JMM/TMR—051702